

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

_____	)	
	)	
Plaintiff(s),	)	
V.	)	Cause No _____ WCL
_____	)	
	)	
Defendant(s).	)	
	)	

THE COURT'S PROPOSED FINAL INSTRUCTIONS

At the close of the evidence and before the argument of counsel, the court indicates that it will give to the jury, after the argument of counsel, Court's Instructions numbered 1 through \_\_\_\_\_, inclusive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
William C. Lee, Judge  
United States District Court

## INTRODUCTORY

### COURT'S INSTRUCTION NO. \_\_\_\_

Members of the Jury: the evidence and arguments in this case have been completed, and I will now instruct you as to the law applicable to this case. It is your duty to follow all of the instructions.

You must not question any rule of law stated by me in these instructions. Regardless of any opinion you may have as to what the law ought to be, you must base your verdict upon the law given by me.

It is your duty to determine the facts from the evidence in this case. You are to apply the law given to you in these instructions to the facts and in this way decide the case.

### COURT'S INSTRUCTION NO. \_\_\_\_

Neither by these instructions, nor by any ruling or remark which I have made, do I mean to indicate any opinion as to the facts or as to what your verdict should be. You are the sole and exclusive judges of the facts.

### COURT'S INSTRUCTION NO. \_\_\_\_

You were accepted as jurors on the basis of the answers you made when you were questioned as to your qualifications. The answers you then made to questions in regard to your competency, qualifications, fairness, lack of prejudice, and freedom from passion and sympathy are as binding on you now as they were then and should remain so until you are finally discharged from further consideration of this cause.

### COURT'S INSTRUCTION NO. \_\_\_\_

Opening statements of counsel are for the purpose of acquainting you with the facts the lawyers expect the evidence to show. Closing arguments are for the purpose of discussing the evidence.

Opening statements, closing arguments and other statements of counsel should be disregarded if you determine that they are not supported by the evidence.

During the course of trial it often becomes the duty of counsel to make objections and for me to rule on them in accordance with the law. The fact that counsel made objections should not influence you in any way.

### COURT'S INSTRUCTION NO. \_\_\_\_

The evidence consists of the sworn testimony of the witnesses, the exhibits received in evidence, and stipulated, admitted, [or judicially noticed facts].

A stipulation is an agreed statement of facts between the parties, and you should regard agreed statements as true.

[I have taken judicial notice of certain facts which I regard as matters of common knowledge. You may, but are not required to accept those facts as proved.]

You should consider only the evidence received in this case and should consider it in

light of your own observations and experiences in life. You may draw reasonable inferences if you believe they are justified from proved facts.

You are to disregard any evidence to which I sustained an objection or which I ordered stricken. Anything you may have seen or heard about this case outside the courtroom is not evidence and must be entirely disregarded.

You should not be influenced by sympathy, prejudice, fear or public opinion. You should decide this case solely on the evidence presented here in the courtroom. [Disregard any press, television or radio reports which you may have read, seen or heard. Such reports are not evidence; therefore, you must not be influenced in any manner whatever by such publicity.]

COURT'S INSTRUCTION NO. \_\_\_\_

There are two types of evidence: direct and circumstantial. Direct evidence is the testimony of a person who claims to have personal knowledge, such as an eyewitness. Circumstantial evidence is the proof of a chain of facts and circumstances from which you may infer or conclude that other facts exist. The law makes no distinction between the weight to be given either direct or circumstantial evidence. Therefore, all of the evidence in the case, including the circumstantial evidence, should be considered by you in arriving at your verdict.

COURT'S INSTRUCTION NO. \_\_\_\_

You are the sole judges of the credibility of the witnesses, and of the weight to be given to the testimony of each of them. In considering the testimony of any witness, you may take into account his intelligence, his ability and opportunity to observe, his age, his memory, his manner while testifying, any interest, bias or prejudice he may have, and the reasonableness of his testimony considered in the light of all the evidence in this case.

COURT'S INSTRUCTION NO. \_\_\_\_

You are not obliged to accept testimony, even though the testimony is uncontradicted and the witness is not impeached. You may decide, because of the witness' bearing and demeanor, or because of the inherent improbability of his testimony, or for other reasons sufficient to you, that such testimony is not worthy of belief.

COURT'S INSTRUCTION NO. \_\_\_\_

You are the exclusive judges of the weight of the evidence. It is your duty to consider all of the evidence and determine what facts have been proven or not proven. If you meet with conflicts in the evidence, you should, if you can reasonably and fairly do so, reconcile the conflicts so as to believe all of the evidence. If you cannot so reconcile the evidence, you then have the right to believe that which you think most worthy of credit and disregard that which cannot be reasonably and fairly reconciled therewith.

COURT'S INSTRUCTION NO. \_\_\_\_

In determining the weight to give to the testimony of a witness, you should ask yourself

whether there was evidence tending to prove that the witness testified falsely about some important fact, or, whether there was evidence that at some other time the witness said or did something, or failed to say or do something that was different from the testimony he gave at the trial.

COURT'S INSTRUCTION NO. \_\_\_\_

The weight to be given to any particular evidence is not necessarily determined by the number of witnesses testifying on behalf of each side. You are to consider all the evidence in the case in determining the credibility of witnesses. You may find that the testimony of a smaller number of witnesses for one side is more credible than the testimony of a greater number of witnesses for the other side.

COURT'S JURY INSTRUCTION NO. \_\_\_\_

You have heard testimony of expert witnesses. This testimony is admissible where the subject matter involved requires knowledge, special duty, training, or skill not within ordinary experience, and the witness is qualified to give an expert opinion.

However, the fact that an expert has given an opinion does not mean that it is binding upon you or that you are obligated to accept the expert's opinion as to the facts. You should assess the weight to be given to the expert opinion in the light of all the evidence in this case.

COURT'S INSTRUCTION NO. \_\_\_\_

This case should be considered and decided by you as an action between persons of equal standing in the community, of equal worth, and holding the same or similar stations of life. All persons stand equal before the law, and are to be dealt with as equals in a court of justice.

COURT'S INSTRUCTION NO. \_\_\_\_

The burden is on the plaintiff in a civil action such as this to prove his claims by a "preponderance of the evidence." A preponderance of the evidence means such evidence as, when considered and compared with that opposed to it, has more convincing force and produces in your minds a belief that what is sought to be proved is more likely true than not true. In other words, to establish a claim by a "preponderance of the evidence" merely means to prove that the claim is more likely so than not so.

In determining whether any fact in issue has been proved by a preponderance of the evidence, the jury may consider the testimony of all the witnesses, regardless of who may have called them, and all the exhibits received in evidence, regardless of who may have produced them. If the proof should fail to establish plaintiff's claim by a preponderance of the evidence, the jury should find for the defendant.

COURT'S INSTRUCTION NO. \_\_\_\_

An act is intentional if it is done knowingly, that is if it is done voluntarily and deliberately and not because of a mistake, accident, negligence or other innocent reason. In

determining whether the defendant acted with the requisite knowledge, you should remember that while witnesses may see and hear and so be able to give direct evidence of what a person does or fails to do, there is no way of looking into a person's mind. Therefore, you have to depend on what was done and what the people involved said was in their minds and your belief or disbelief with respect to those facts.

COURT'S INSTRUCTION NO. \_\_\_\_

The plaintiff must also prove that defendant's acts were a proximate cause of the injuries sustained by the plaintiff. Proximate cause means that there must be a sufficient causal connection between the act or omission of a defendant and any injury or damage sustained by the plaintiffs. An act or omission is a proximate cause if it was a substantial factor in bringing about or actually causing injury. Proximate cause is proof if the injury or damage that resulted was a reasonably foreseeable consequence of the defendants' act or omission. If an injury was a direct result or a reasonably probable consequence of the defendants' act or omission, it was proximately caused by such act or omission. In order to recover damages for any injury, the plaintiffs must show by a preponderance of the evidence that such injury would not have occurred without the conduct of the defendant. If you find that the defendant has proved, by a preponderance of the evidence that the plaintiffs complain about an injury that would have occurred even in the absence of defendants' conduct, you must find that the defendant did not proximately cause plaintiffs' injury.

## CLOSING

### COURT'S INSTRUCTION NO. \_\_\_\_

When you go to the jury room to begin considering the evidence in this case, you will first select one of the members of the jury to act as your foreperson. He or she will help to guide your discussions in the jury room and will be your spokesperson here in court.

I have prepared a form of verdict for your convenience. You will take this form to the jury room and when you have arrived at your verdict, have the foreman date and sign the verdict form and notify the officer in whose charge you will be.

### COURT'S INSTRUCTION NO. \_\_\_\_

The verdict must represent the considered judgment of each juror. Your verdict must be unanimous. You should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror. You are impartial judges of the facts.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to reexamine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinion of your fellow jurors or for the purpose of returning a unanimous verdict.

### COURT'S INSTRUCTION NO. \_\_\_\_

It is necessary from this time until you are discharged to remain together in a body and in the charge of the officer who will be sworn to attend you. You are not during your deliberation to communicate with anyone other than this jury and the officer until you are discharged.

### COURT'S INSTRUCTION NO. \_\_\_\_

These instructions are all in writing and I will send them to the jury room for your use in your deliberations upon your verdict. You are not to single out any certain sentence or any individual point or instruction and ignore the others, but you are to consider all of the instructions as a whole, and you are to regard each instruction in the light of all the others. You will also be permitted to take the exhibits with you to use in your deliberations upon your verdict.